

114TH CONGRESS  
2D SESSION

# S. 3547

To amend title 5, United States Code, to provide for the publication, by the Office of Information and Regulatory Affairs, of information relating to rule makings, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

DECEMBER 9, 2016

Mr. HATCH introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To amend title 5, United States Code, to provide for the publication, by the Office of Information and Regulatory Affairs, of information relating to rule makings, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*

2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “All Economic Regula-

5       tions are Transparent Act of 2016” or the “ALERT Act

6       of 2016”.

1   **SEC. 2. OFFICE OF INFORMATION AND REGULATORY AF-**  
2                 **FAIRS PUBLICATION OF INFORMATION RE-**  
3                 **LATING TO RULES.**

4         (a) IN GENERAL.—Part I of title 5, United States  
5 Code, is amended by inserting after chapter 6 the fol-  
6 lowing:

7   **“CHAPTER 6A—OFFICE OF INFORMATION**  
8         **AND REGULATORY AFFAIRS PUBLICA-**  
9         **TION OF INFORMATION RELATING TO**  
10         **RULES**

“Sec.

“651. Agency monthly submission to Office of Information and Regulatory Af-  
fairs.

“652. Office of Information and Regulatory Affairs publications.

“653. Requirement for rules to appear in agency-specific monthly publication.

“654. Definitions.

11   **“§ 651. Agency monthly submission to Office of Infor-**  
12         **mation and Regulatory Affairs**

13         “On a monthly basis, the head of each agency shall  
14 submit to the Administrator of the Office of Information  
15 and Regulatory Affairs (referred to in this chapter as the  
16 ‘Administrator’), in such a manner as the Administrator  
17 may reasonably require, the following information:

18                 “(1) For each rule that the agency expects to  
19 propose or finalize during the following year:

20                     “(A) A summary of the nature of the rule,  
21 including the regulation identifier number and  
22 the docket number for the rule.

1               “(B) The objectives of, and legal basis for,  
2               the issuance of the rule, including—

3                     “(i) any statutory or judicial deadline;  
4                     and

5                     “(ii) whether—  
6                         “(I) the legal basis restricts or  
7                         precludes the agency from conducting  
8                         an analysis of the costs or benefits of  
9                         the rule during the rule making; and

10                         “(II) if the legal basis does not  
11                         restrict or preclude the agency from  
12                         conducting an analysis of the costs or  
13                         benefits of the rule during the rule  
14                         making, the agency plans to conduct  
15                         an analysis of the costs or benefits of  
16                         the rule during the rule making.

17               “(C) Whether the agency plans to claim an  
18               exemption from the requirements of section 553  
19               under section 553(b)(B).

20               “(D) The stage of the rule making as of  
21               the date of submission.

22               “(E) Whether the rule is subject to review  
23               under section 610.

24               “(2) For any rule that the agency expects to fi-  
25               nalize during the following year and for which the

1 agency has issued a general notice of proposed rule  
2 making:

3 “(A) An approximate schedule for com-  
4 pleting action on the rule.

5 “(B) An estimate of whether the rule will  
6 cost—

7 “(i) less than \$50,000,000;

8 “(ii) not less than \$50,000,000 and  
9 less than \$100,000,000;

10 “(iii) not less than \$100,000,000 and  
11 less than \$500,000,000;

12 “(iv) not less than \$500,000,000 and  
13 less than \$1,000,000,000;

14 “(v) not less than \$1,000,000,000 and  
15 less than \$5,000,000,000;

16 “(vi) not less than \$5,000,000,000  
17 and less than \$10,000,000,000; or

18 “(vii) not less than \$10,000,000,000.

19 “(C) Subject to subparagraph (D), any es-  
20 timate of the economic effects of the rule, in-  
21 cluding any estimate of the net effect that the  
22 rule will have on the number of jobs in the  
23 United States, that was considered in drafting  
24 the rule.

1                 “(D) If an estimate under subparagraph  
2                 (C) is not available, a statement affirming that  
3                 no information on the economic effects, includ-  
4                 ing the effect on the number of jobs, of the rule  
5                 has been considered.

6     **§ 652. Office of Information and Regulatory Affairs**

7                 **publications**

8                 “(a) AGENCY-SPECIFIC INFORMATION PUBLISHED  
9     MONTHLY.—Not later than 30 days after the submission  
10    of information under section 651, the Administrator shall  
11    make such information publicly available on the Internet.

12                 “(b) CUMULATIVE ASSESSMENT OF AGENCY RULE  
13    MAKING PUBLISHED ANNUALLY.—

14                 “(1) PUBLICATION IN THE FEDERAL REG-  
15     ISTER.—Not later than October 1 of each year, the  
16     Administrator shall publish in the Federal Register,  
17     for the previous year, the following:

18                 “(A) The information that the Adminis-  
19     trator received from the head of each agency  
20     under section 651.

21                 “(B) The number of rules and a list of  
22     each such rule—

23                 “(i) that was proposed by each agen-  
24     cy, including, for each such rule, an indica-  
25     tion of whether the issuing agency con-

9                             “(II) the agency claimed an ex-  
10                                 emption from the procedures under  
11                                 section 553 under section 553(b)(B);  
12                                 and

17               “(C) The number of agency actions, and a  
18               list of each such action taken by each agency,  
19               that—

“(j) repealed a rule;

<sup>21</sup> “(ii) reduced the scope of a rule:

“(iii) reduced the cost of a rule; or

“(iv) accelerated the expiration date  
of a rule.

1                 “(D) The total cost (without reducing the  
2                 cost by any offsetting benefits) of all rules pro-  
3                 posed or finalized and the number of rules for  
4                 which an estimate of the cost of the rule was  
5                 not available.

6                 “(2) PUBLICATION ON THE INTERNET.—Not  
7                 later than October 1 of each year, the Administrator  
8                 shall make publicly available on the Internet the fol-  
9                 lowing:

10                 “(A) The analysis of the costs or benefits,  
11                 if conducted, for each proposed or final rule  
12                 issued by an agency for the previous year.

13                 “(B) The docket number and regulation  
14                 identifier number for each proposed or final  
15                 rule issued by an agency for the previous year.

16                 “(C) The number of rules and a list of  
17                 each such rule reviewed by the Director of the  
18                 Office of Management and Budget for the pre-  
19                 vious year and the authority under which each  
20                 such review was conducted.

21                 “(D) The number of rules and a list of  
22                 each such rule for which the head of an agency  
23                 completed a review under section 610 for the  
24                 previous year.

1               “(E) The number of rules and a list of  
2               each such rule submitted to the Comptroller  
3               General of the United States under section 801.

4               “(F) The number of rules and a list of  
5               each such rule for which a resolution of dis-  
6               approval was introduced in the House of Rep-  
7               resentatives or the Senate under section 802.

8       **§ 653. Requirement for rules to appear in agency-  
9               specific monthly publication**

10          “(a) IN GENERAL.—Subject to subsection (b), a rule  
11       may not take effect until the information required to be  
12       made publicly available on the Internet regarding that rule  
13       under section 652(a) has been so available for not less  
14       than 180 days.

15          “(b) EXCEPTIONS.—Subsection (a) shall not apply in  
16       the case of a rule—

17               “(1) for which the agency issuing the rule  
18       claims an exception under section 553(b)(B); or

19               “(2) that the President determines by Executive  
20       order should take effect because the rule is—

21               “(A) necessary because of—

22               “(i) an imminent threat to health or  
23       safety; or

24               “(ii) another emergency;

1               “(B) necessary for the enforcement of  
 2               criminal laws;  
 3               “(C) necessary for national security; or  
 4               “(D) issued under any statute imple-  
 5               menting an international trade agreement.

6 **“§ 654. Definitions**

7               “In this chapter, the terms ‘agency’, ‘agency action’,  
 8               ‘rule’, and ‘rule making’ have the meanings given those  
 9               terms in section 551.”.

10              (b) TECHNICAL AND CONFORMING AMENDMENT.—  
 11          The table of chapters for part I of title 5, United States  
 12          Code, is amended by inserting after the item relating to  
 13          chapter 5 the following:

**“6. The Analysis of Regulatory Functions ..... 601**  
**“6A. Office of Information and Regulatory Affairs Publi-**  
**cation of Information Relating to Rules ..... 651”.**

14              (c) EFFECTIVE DATES.—

15               (1) AGENCY MONTHLY SUBMISSION TO THE OF-  
 16          FICE OF INFORMATION AND REGULATORY AF-  
 17          FAIRS.—The first submission required under section  
 18          651 of title 5, United States Code, as added by sub-  
 19          section (a), shall be submitted not later than 30  
 20          days after the date of the enactment of this Act.

21               (2) CUMULATIVE ASSESSMENT OF AGENCY  
 22          RULE MAKING.—

23               (A) IN GENERAL.—Subsection (b) of sec-  
 24          tion 652 of title 5, United States Code, as

1           added by subsection (a), shall take effect on the  
2           date that is 60 days after the date of the enact-  
3           ment of this Act.

4           (B) DEADLINE.—The first requirement to  
5           publish or make available, as applicable, under  
6           subsection (b) of section 652 of title 5, United  
7           States Code, as added by subsection (a), shall  
8           be the first October 1 after the effective date of  
9           that subsection.

10          (C) FIRST PUBLICATION.—The require-  
11          ment under section 652(b)(2)(A) of title 5,  
12          United States Code, as added by subsection (a),  
13          shall include, for the first publication under  
14          that section, any analysis of the costs or bene-  
15          fits conducted for a proposed or final rule for  
16          the 10-year period preceding the date of the en-  
17          actment of this Act.

18          (3) REQUIREMENT FOR RULES TO APPEAR IN  
19          AGENCY-SPECIFIC MONTHLY PUBLICATION.—Section  
20          653 of title 5, United States Code, as added by sub-  
21          section (a), shall take effect on the date that is 240  
22          days after the date of the enactment of this Act.

